

DELEGATION OF AUTHORITY

DATE: 01/23/2017

CLEAN WATER ACT

2-52-A. Class II Administrative Penalty: Initiation of Action; Public Notice; Consultation with State; Negotiation and Signing of Consent Agreements; and Assessing Penalties

1. PURPOSE AND LEGAL AUTHORITY.

A. Purpose. To redelegate the authorities contained in Delegation 2-52-A issued by EPA Headquarters on January 18, 2017 and as provided in 40 CFR §22.4(b).

B. Authority. Pursuant to Section 309(g) and 311 of the Clean Water Act (CWA), the authority to:

- a. make findings of fact; propose penalty to be assessed; issue, amend, or withdraw Class II administrative complaints;
- b. provide, or cause to be provided, public notice of proposed assessment and provide commenters with copies of orders entered on consent or on default;
- c. consult with States, as required;
- d. sign consent agreements between the Agency and the party against whom a Class II penalty is proposed to be assessed;
- e. issue final orders assessing Class II penalties where no hearing is requested by the respondent or pursuant to a consent agreement; and

2. TO WHOM REDELEGATED.

A. The authority to perform the functions in 1.B.a. through 1.B.d. is redelegated to the Director, Office of Environmental Stewardship (OES).

B. The authority to perform the function in 1.B.e. is redelegated to the Regional Judicial Officer.

C. The Director, OES, further redelegates the authority to perform the functions in 1.B.b. and 1.B.c. to staff attorneys as designated by the Manager, Regulatory Legal Unit, OES, or appropriate OES technical program staff, as designated by the Manager, Regulatory Legal Unit, OES, in consultation with the Manager, Water Technical Unit, OES.

3. REDELEGATION AUTHORITY.

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A. Persons exercising authority 1.B.d. may allow other appropriate EPA officers or employees to join as "co" or supplemental signatories.

B. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by an official in the chain of command down to the official to whom it has been specifically redelegated.

4. LIMITATIONS.

A. These authorities will be exercised only in cases initiated by Region I.

B. The Director, OES, or his/her designee, must obtain the advance concurrence of the Manager, Legal Enforcement Office, OES, or equivalent, or his/her designee, on the legal sufficiency of the action before exercising authorities 1.B.a. or 1.B.d. The Manager, Legal Enforcement Office, OES, or his/her designee, may waive concurrence in writing.

C. The Manager, Legal Enforcement Office, OES, or his/her designee, shall be responsible for consulting with the Regional Counsel, or his/her designee, regarding significant counseling issues prior to exercising authorities 1.B.a. and 1.B.d.

D. The Assistant Administrator (AA) for the Office of Enforcement and Compliance Assurance (OECA) may only exercise authorities 1.B.a. through 1.B.d. and may only exercise those authorities in multi-regional cases and cases of national significance.

E. The AA for OECA must notify the appropriate Regional Administrator (RA), or designee, before exercising authority 1.B.a. and must consult with RAs, or designees, and notify the AA of the Office of Water before exercising authority 1.B.d.

F. The Environmental Appeals Board may only exercise authorities 1.B.e. and 1.B.f. and only in those cases initiated by Headquarters.

5. ADDITIONAL REFERENCES.

A. Section 309(g) and 311 of the CWA.

B. 40 CFR Part 22.

C. Chapter 1, Delegations 1-37 and 1-38 entitled *Hearings and Adjudicatory Proceedings*.

6. SUPERSESSON. Region I Delegation 2-52-A, dated September 29, 1995.

ENVIRONMENTAL PROTECTION AGENCY
REGION I - BOSTON

CLASS. NO. 1200
DELEGATION NO. 2-52-A

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H. Curtis Spalding
Regional Administrator



Susan Studlien, Director
Office of Environmental Stewardship

1-19-2017

Date

01/23/2017

Date